

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

FRANCISCO JAVIER BARRERA
REYES,

Defendant.

CR 24–20–BU–DLC

ORDER

Before the Court is United States Magistrate Judge Kathleen L. DeSoto’s Findings & Recommendation Concerning Plea. (Doc. 35.) Because neither party objected, they are not entitled to *de novo* review. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Therefore, the Court reviews the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Francisco Javier Barrera Reyes is charged with illegal reentry, in violation of 8 U.S.C. § 1326(a), as charged in the sole count of the Indictment. (Doc. 3.) Judge DeSoto recommends that this Court accept Barrera Reyes’s guilty plea as to the sole count in the Indictment after he appeared before her pursuant to Federal Rule

of Criminal Procedure 11. The Court finds no clear error in Judge DeSoto's Findings and Recommendation and adopts them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that Judge DeSoto's Findings and Recommendation (Doc. 35) is ADOPTED in full.

IT IS FURTHER ORDERED that Barrera Reyes's motion to change plea (Doc. 20) is GRANTED.

IT IS FURTHER ORDERED that Barrera Reyes is adjudged guilty as charged in the sole count of the Indictment.

DATED this 24th day of February, 2025.



Dana L. Christensen, District Judge
United States District Court